



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D. C. 20231  
www.uspto.gov

APR 20 2001

Paper No. 3

In re Application of :  
Robert Grosz : DECISION ON PETITION  
Application No. 09/521,015 :  
Filed: March 7, 2000 :  
For: Thin Walled Silver :  
Filled Gold Jewelry :

This is a decision on the petition to make special filed on April 3, 2001, by which petitioner seeks special status for advanced examination out of turn on the basis of "Manufacture".

The petition is dismissed.

In accordance with the practice established in MPEP 708.02(I), an application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(i) and a statement by the applicant, assignee or an attorney/agent registered to practice before the PTO alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition lacks items (1)-(4) above.

With respect to item (A), it is noted that the inventor has signed a declaration in support of the instant petition. If the inventor were signing on behalf of himself as an individual, a corroborating statement with respect to the availability of the capital necessary to manufacture the invention would be required. If the inventor is in fact signing as an Officer of the assignee (as appears to be the case), then it is necessary that a certification pursuant to 37 CFR 3.73(b) be submitted establishing the assignee's right to take action in this matter.

The same issue regarding the lack of a 37 CFR 3.73(b) certification exists with respect to items

(B) and (C). In addition, with respect to item (C), it is noted that the assignee does not state that it obligates itself to manufacture the invention in quantity immediately upon allowance of claims or issuance of the patent. Moreover, it does not appear that any manufacturing will take place in the United States or its possessions.

With respect to item (D), petitioner has not submitted one copy of each prior art reference deemed most closely related to the claimed subject matter, although petitioner has stated that petitioner is aware of prior art by reason of having prosecuted a parent patent application.

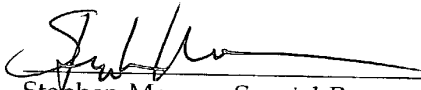
Petitioner may submit a renewed petition, without additional fee, addressing the above matters. The renewed petition must, however, be submitted within two months of the date of this Decision, see 37 CFR 1.181(f). The renewed petition may be filed by mail, in an envelope addressed to:

Assistant Commissioner for Patents  
Washington, DC 20231

and addressed to the attention of the undersigned. Alternatively, the renewed petition may be filed by facsimile transmission to (703) 305-3762. Questions regarding this decision may be addressed to the undersigned by telephone at (703) 308-3872.

The application is being retained in the Technology Center 3700 Central Files awaiting appropriate action by petitioner, or initial consideration by the examiner.

PETITION DISMISSED.

  
Stephen Marcus, Special Program Examiner  
Patent Examining Groups 3710 and 3720

Alfred M. Walker  
225 Old Country Road  
Melville, NY 11747